



State Water Resources Control Board



Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights

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Arnold Schwarzenegger
Governor

NOV 23 2005

Mr. Henry M. Ramirez
Oroville Facilities Relicensing Program
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

Dear Mr. Ramirez:

REQUEST FOR WATER QUALITY CERTIFICATION ON RELICENSING OF THE OROVILLE FACILITIES (FERC PROJECT NO. 2100)

Thank you for your letter to Celeste Cantú, the Executive Director of the State Water Resources Control Board (State Water Board), requesting water quality certification or waiver pursuant to section 401 (a)(1) of the Federal Clean Water Act (CWA) (33 U.S.C. §1341), for the relicensing of the Oroville Facilities (Project No. 2100). The Oroville Facilities hydroelectric project, currently operated under a Federal Energy Regulatory Commission (FERC) license granted to the Department of Water Resources (DWR), will expire on January 31, 2007. Prior to the FERC issuance of a new license, a section 401 Certification or waiver will be required (18 C.F.R. §16.8 (d)(7)(i)). DWR's letter, received October 26, 2005, initiates a one-year time clock for the State Water Board to act on the request for 401 Certification.

A section 401 water quality certification may be issued if it is determined that there is reasonable assurance that an activity is consistent with federal and state water quality standards. Issuance of a water quality certification is a discretionary act and is subject to the California Environmental Quality Act (CEQA). The State Water Board understands that DWR will act as the state lead agency for CEQA compliance on this relicensing action. Pursuant to the CWA and CEQA, State Water Board staff must analyze potential project-related environmental effects to the water quality and designated beneficial uses of the project affected reaches of the Feather River drainage.¹ The CEQA document must identify measures, if necessary, that will avoid, reduce or mitigate potential significant impacts to the designated beneficial uses of the surface waters affected by the project and any monitoring program necessary to ensure compliance.

FERC, acting as the federal lead agency under the National Environmental Policy Act (NEPA) for the project, will prepare a draft environmental document for their licensing action. Although CEQA encourages the use of an existing NEPA document in lieu of preparing a new environmental document (Pub. Resources Code, §221083.7), State Water Board staff caution that there are subtle differences in the requirements of NEPA and CEQA. Any document

¹ California Regional Water Quality Control Board, Central Valley Region. 1998. The Water Quality Control Plan (Basin Plan) for the Regional Water Quality Control Board, Central Valley Region: The Sacramento River Basin and the San Joaquin River Basin. Fourth Edition (with approved amendments, 2004).

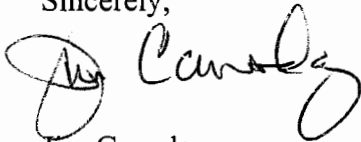
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considered for CEQA purposes must satisfy the statute and must fully disclose all project-related impacts to the designated beneficial uses defined for waters of Lake Oroville, the Thermalito Complex, and the Feather River downstream of the Fish Barrier Dam.

A final environmental document must be completed and provided to State Water Board staff no later than July 25, 2006, to allow adequate time for staff review and the preparation of water quality certification recommendations to the State Water Board Executive Director. If the final environmental document is not provided by the date identified above, State Water Board staff will recommend denial of water quality certification without prejudice subject to completion of an adequate environmental document (Cal. Code Regs., tit. 23, §3836). In the event that the final environmental document is not available for State Water Board use, DWR may choose to withdraw its request for section 401 Certification and refile the request when the environmental document is final.

State Water Board staff appreciates the cooperation of DWR staff and looks forward to working with you on this matter. Should you have questions regarding this letter please contact Sharon Stohrer at (916) 341-5397 or e-mail: [sstohrer@waterboards.ca.gov](mailto:ssstohrer@waterboards.ca.gov), or you may contact me by calling (916) 341-5308.

Sincerely,



Jim Canaday
Senior Environmental Scientist
FERC Licensing Team

cc: Ms. Magalie R. Salas, Secretary
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